

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LUCIOUS JOHNSON,
4939 Penn Street
Philadelphia, PA 19129
Plaintiff,

vs.

CSX INTERMODAL TERMINALS, INC.
3400 S. Christopher Columbus Boulevard
Philadelphia, PA 19148
Defendant.

:
:
: CIVIL ACTION
: NO. _____
:
:
:
: JURY TRIAL DEMANDED
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:
:

NOTICE OF REMOVAL

Defendant CSX Intermodal Terminals, Inc., by its undersigned attorneys and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, files this Notice of Removal to remove this action to the United States District Court for the Eastern District of Pennsylvania. This action was originally filed and is presently pending in the Philadelphia County Court of Common Pleas, November Term, 2018, Case No. 03260.

I. REMOVAL IS TIMELY

1. On November 29, 2018, Plaintiff Lucious Johnson (“Plaintiff”) filed a Complaint in the Philadelphia County Court of Common Pleas, styled *Johnson v. CSX Intermodal Terminals, Inc.* under assigned Case Number 181103260.
2. Service was made on CSX Intermodal Terminals, Inc. (“CSXIT”) on December 10, 2018.
3. Pursuant to 28 U.S.C. §1446(a), a Copy of the Complaint, and all papers and process served upon CSXIT are attached to this notice as Exhibit “A.”

4. Pursuant to 28 U.S.C. § 1446(b), this Notice is filed within thirty (30) days of the date CSXIT was served with the Complaint.

II. JURISDICTION

5. This Court has original jurisdiction under 28 U.S.C. § 1332, because complete diversity exists between the parties and because the amount in controversy exceeds the sum or value of \$75,000, exclusive of costs and interests.

6. Venue is proper in this Court because the United States District Court for the Eastern District of Pennsylvania is the district in which the state court action was filed.

A. Citizenship of Parties

7. Complete diversity of citizenship exists in this matter because the Defendant and Plaintiff are citizens of different states. *See* 28 U.S.C. § 1332(a).

1. Plaintiff

8. Plaintiff is alleged to be a citizen of Pennsylvania (Complaint at ¶ 1.)

2. Defendant CSX Intermodal Terminals, Inc.

9. Defendant CSX Intermodal Terminals, Inc. is a Delaware corporation with its principal place of business in Florida.

10. No other defendants are named in this action.

B. Amount In Controversy

11. Pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

12. Although CSXIT disputes liability, the Complaint seeks damages for, among other things, “lumbar radiculitis, disc protrusions at L2-3, L3-4, L4-5, L5-S1 and neural foramina stenosis of lumbar spine that required epidural steroid injections and surgical intervention,”

“severe physical pain, embarrassment, humiliation and distress”, as well as “work loss.”

(Complaint at ¶¶6-9). Hence, should liability be imposed and damages be awarded in this case (which Defendant contests), the damages Plaintiff will seek will exceed \$75,000.

13. Accordingly, this entire action may be removed to this Court under 28 U.S.C. § 1441.

Dated: December 20, 2018

Respectfully submitted,

DUANE MORRIS LLP

By: s/ Robert C. Levicoff (RCL8943)
Sharon L. Caffrey (Pa. ID# 49519)
Jeffrey S. Pollack (Pa. ID# 91888)
Robert C. Levicoff (Pa. ID# 200457)
30 South 17th Street
Philadelphia, Pennsylvania 19103
(215) 979-1943

*Attorneys for Defendant CSX Intermodal
Terminals, Inc.*

CERTIFICATE OF SERVICE

I, Robert C. Levicoff, hereby certify that a true and correct copy of the foregoing Notice of Removal has been served via first-class mail and e-mail this 20th day of December 2018 to the following counsel of record:

Leonard V. Fodera
Alexander C. Hyder
Fodera & Long, P.C.
1500 Walnut Street, Suite 900
Philadelphia, PA 19102

Counsel for Plaintiff Lucious Johnson

s/ Robert C. Levicoff (RCL8943)
Robert C. Levicoff

EXHIBIT A

Court of Common Pleas of Philadelphia County
Trial Division
Civil Cover Sheet

PLAINTIFFS NAME LUCIOUS JOHNSON		DEFENDANTS NAME CSX INTERMODAL TERMINALS, INC.	
PLAINTIFFS ADDRESS 4939 PENN STREET PHILADELPHIA PA 19129		DEFENDANTS ADDRESS 3400 S. CHRISTOPHER COLUMBUS B PHILADELPHIA PA 19148	
PLAINTIFFS NAME		DEFENDANTS NAME	
PLAINTIFFS ADDRESS		DEFENDANTS ADDRESS	
PLAINTIFFS NAME		DEFENDANTS NAME	
PLAINTIFFS ADDRESS		DEFENDANTS ADDRESS	
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 1	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input checked="" type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input checked="" type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input type="checkbox"/> Jury <input checked="" type="checkbox"/> Savings Action <input checked="" type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input checked="" type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input checked="" type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		
CASE TYPE AND CODE 2S - PREMISES LIABILITY, SLIP/FALL			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		IS CASE SUBJECT TO COORDINATION ORDER? YES NO	
NAME OF PLAINTIFFS/PETITIONER'S/APPELLANT'S ATTORNEY ALEXANDER C. HYDER		ADDRESS 1500 WALNUT ST SUITE 900 PHILADELPHIA PA 19102	
PHONE NUMBER (215) 569-1212	FAX NUMBER (215) 569-1550		
SUPREME COURT IDENTIFICATION NO. 320939		E-MAIL ADDRESS ahyder@federalawfirm.com	
SIGNATURE OF FILING ATTORNEY OR PARTY ALEXANDER HYDER		DATE SUBMITTED Thursday, November 29, 2018, 02:01 pm	

FINAL COPY (Approved by the Prothonotary Clerk)

FODERA & LONG, P.C.

By: Leonard V. Fodera, Esquire (I.D. No.: 57203)

Alexander C. Hyder, Esquire (I.D. No.: 320939)

1500 Walnut Street, Suite 900

Philadelphia, PA 19102

Attorneys for Plaintiff

215.569.1212

Our File No.:31635

Attorneys for Plaintiff

Filed and Attested by the
Office of Judicial Records
29 NOV 2018 02:01 pm

LUCIOUS JOHNSON

4939 Penn Street

Philadelphia, PA 19129

Plaintiff,

v.

CSX INTERMODAL TERMINALS, INC.

3400 S. Christopher Columbus Boulevard

Philadelphia, PA 19148

Defendant.

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY

TERM, 2018

NO.:

MAJOR NON JURY MATTER

CIVIL ACTION COMPLAINT
PREMISES LIABILITY

NOTICE

You have been sued in court, if you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after the complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Philadelphia Bar Association
Lawyer Referral and Information
One Reading Center
Philadelphia, Pennsylvania
(215) 238-6333

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderee de estas demandas expuestas en las paginas siguientes, usted bene venta (2) dias de plazo al perfil de la fecha de la demanda y la notification. Mace faltz assentar uno comperencia escrita o en persona o con un abogado y entregar a la corte en forme escrita sus defendree o sus objectiones a les demandes on contra de su persona. See avisado que el usted no se defenda, la corte tomare' medidas y guade conouer lo demando on contra suye sin perrio avise o notification. Adem la corte suedo decidir a favor del demandante y require que usted cunola con todas las provisiones de uste demanda. Usted sued porder dinere o sus propledeedes u otros cerechos importantes pere usted. LLEVE ESTA DEMANDA A UN ABOGADO IMMEDIATAMENTE. SI NO TIENT ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DOMOE SE PUEDE CONSEGUIR ASISTENCIA LEGAL

Asociacion De Licenciados De Filadelfia
Servicio De Referencia E Informacion Legal
One Reading Center
Philadelphia, Pennsylvania
Telefono: (215) 238-6333

FODERA & LONG, P.C.
 By: Leonard V. Fodera, Esquire (I.D. No.: 57203)
 Alexander C. Hyder, Esquire (I.D. No.: 320939)
 1500 Walnut Street, Suite 900
 Philadelphia, PA 19102
 Attorneys for Plaintiff
 215.569.1212
 Our File No.:31635
 Attorneys for Plaintiff

<p>LUCIOUS JOHNSON. 4939 Penn Street Philadelphia, PA 19129</p>	<p>: COURT OF COMMON PLEAS : PHILADELPHIA COUNTY : : TERM, 2018 : : NO.: : : MAJOR NON JURY MATTER : : : : : : :</p>
<p>Plaintiff,</p>	
<p>v.</p>	
<p>CSX INTERMODAL TERMINALS, INC. 3400 S. Christopher Columbus Boulevard Philadelphia, PA 19148</p>	
<p>Defendant.</p>	

CIVIL ACTION COMPLAINT
PREMISES LIABILITY

Plaintiff by counsel, **FODERA & LONG**, hereby demands damages from the Defendants herein and in support thereof avers:

1. Plaintiff, Lucious Johnson, is an adult individual and resides at the above-captioned address.
2. Defendant, CSX Intermodal Terminals, Inc., hereinafter "CSX" is an organized and existing business entity located at the above-captioned address.
3. Defendant CSX regularly conducts business in Philadelphia County and may be served with process therein.
4. At all times material and relevant to this Complaint, Defendant CSX, individually, jointly, as an entity and/or through its agents or subsidiaries, owned, managed,

controlled, and/or maintained the premises known as 3400 S. Christopher Columbus Boulevard, Philadelphia, PA 19148.

5. At all times relevant herein, the Defendant had a duty to keep the above-referenced property free and clear of any unreasonable dangers or hazards, and/or to prevent any new or increased hazards or dangers from occurring through its own conduct and/or the conduct of its employees, agents and/or ostensible agents.
6. On or about February 10, 2018, Plaintiff was lawfully at the above-referenced CSX location as a business invitee making a delivery when he fell in a hole in the ground on his way back from the bathroom, causing him to fall and sustain serious injuries including but not limited to, lumbar radiculitis, disc protrusions at L2-3, L3-4, L4-5, L5-S1 and neural foraminal stenosis of lumbar spine that required epidural steroid injections and surgical intervention, all or some which may be permanent in nature.
7. As a further result of his injuries, the Plaintiff has suffered severe physical pain, embarrassment, humiliation and the distress associated therewith, and may continue to suffer the same for an indefinite time in the future.
8. As a further result of his injuries, Plaintiff has or may be obliged to expend various and diverse sums of money for medicines, medical services, osteopathic services, nursing, certain prosthesis, other medical equipment and replacement services and which are not covered by, or which are in excess of those provided for in accordance with his medical benefits.
9. As a further result of the accident aforementioned, Plaintiff has or may hereafter incur other financial expenses or sustain losses including but not limited to work loss which does or may exceed amounts that Plaintiff may otherwise be entitled to recover.

COUNT I

LUCIOUS JOHNSON v. CSX

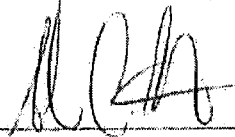
10. The Plaintiff herein incorporates by reference paragraphs 1 through 8 inclusive as fully as though they were here set forth at length.
11. The accident resulted solely from the negligence and carelessness of the Defendant, CSX.
12. The accident herein was in no way due to any act or failure to act on the part of Plaintiff.
13. The negligence and/or carelessness of the Defendant consisted of the following:
 - a. allowing a dangerous condition to exist on the aforesaid premises;
 - b. failing to properly maintain the aforesaid premises;
 - c. failing to properly create and/or maintain a safe environment within its property;
 - d. failing to properly train and/or instruct its employees, servants, and/or agents regarding how to create and/or maintain a safe environment within its property;
 - e. failing to exercise proper care and/or supervision over, and/or establish proper monitoring and supervision policies for their employees and/or agents;
 - f. failing to maintain a safe property;
 - g. failing to properly inspect premises and monitor employees;

- h. failing to adequately warn plaintiff of the dangerous condition;
- i. failing to adequately warn business invitees, including plaintiff, of said dangerous condition;
- j. failing to correct said dangerous condition;
- k. failing to eliminate and/or otherwise correct the unreasonably dangerous condition which constituted a risk to persons such as plaintiff at its property; and
- l. causing a dangerous condition.

14. As a result of the negligence and/or carelessness of said Defendant, Plaintiff was caused to suffer various severe physical injuries as more fully hereinbefore described.

WHEREFORE, Plaintiff Lucious Johnson demands judgment against Defendant in an amount in excess of \$50,000.00 together with interest, costs of suit and damages for delay.

FODERA & LONG, PC



LEONARD V. FODERA, ESQUIRE
ALEXANDER C. HYDER, ESQUIRE
Attorneys for Plaintiff

Date: 11-29-18

FODERA & LONG, P.C.

By: Leonard V. Fodera, Esquire (I.D. No.: 57203)

Alexander C. Hyder, Esquire (I.D. No.: 320939)

1500 Walnut Street, Suite 900

Philadelphia, PA 19102

Attorneys for Plaintiff

215.569.1212

Our File No.:31635

Attorneys for Plaintiff

LUCIOUS JOHNSON
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CSX INTERMODAL TERMINALS, INC.
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: COURT OF COMMON PLEAS

: PHILADELPHIA COUNTY

: TERM, 2018

: NO.:

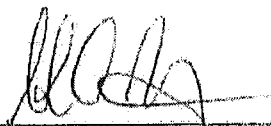
: MAJOR NON JURY MATTER

NOTICE OF PRESERVATION OF EVIDENCE

PLAINTIFF HEREBY DEMANDS AND REQUESTS THAT DEFENDANT TAKE
NECESSARY ACTION TO ENSURE THE PRESERVATION OF ALL DOCUMENTS,
COMMUNICATIONS, WHETHER ELECTRONIC OR OTHERWISE, ITEMS AND THINGS
IN THE POSSESSION OR CONTROL OF ANY PARTY TO THIS ACTION, OR ANY
ENTITY OVER WHICH ANY PARTY TO THIS ACTION HAS CONTROL, OR FROM
WHOM ANY PARTY TO THIS ACTION HAS ACCESS TO, ANY DOCUMENTS, ITEMS,

OR THINGS WHICH MAY IN ANY MANNER BE RELEVANT TO OR RELATE TO THE
SUBJECT MATTER OF THE CAUSES OF ACTION AND/OR THE ALLEGATIONS OF
THIS COMPLAINT.

FODERA & LONG, PC

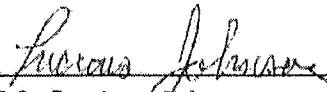
A handwritten signature in black ink, appearing to read 'LF', is written over a horizontal line.

LEONARD V. FODERA, ESQUIRE
ALEXANDER C. HYDER, ESQUIRE
Attorneys for Plaintiff

Date: 11-29-18

VERIFICATION

I, Mr. Lucious Johnson hereby state that I am the plaintiff in this action and verify that the statements made in the foregoing Civil Action Complaint are true and correct to the best of my knowledge, information and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. §4909 relating to unsworn falsification to authorities.



Mr. Lucious Johnson

11-12-2018
Date

Affidavit / Return of Service

Plaintiff:	LUCIOUS JOHNSON				Court Term & No.: 181103260 E-File# 1812023847
Defendant:	CSX INTERMODAL TERMINALS INC				Document Served: Plaintiff's Complaint
Serve at:	3400 S CHRIS COLUMBUS BLVD				Company Reference/Control No.: 1811114
<p>Served and Made Known to CSX INTERMODAL TERMINALS INC on 12/10/2018 at 01:49 PM, in the manner described below:</p> <p>Manager/Clerk of place of lodging in which Party(s) resides. NAME: RYAN GOMEZ</p>					
Description	Age:	Height:	Weight:	Race:	Sex:
	40	6' 2"	190 lbs.	Caucasian	Male
	Other:				
Company Profile: GILL GILL & ASSOCIATES INC 1500 WALNUT ST. SUITE 1050 PHILADELPHIA PA 19102 PHONE: (215)790-0800				Name of Server: ERIC KRAMER Being duly sworn according to law, deposes and says that he/she is process server herein names; and that the facts herein set forth above are true and correct to the best of their knowledge, information and belief.	
				Deputy Sheriff:	

FILED AND ATTESTED PRO-PROTHY 12 DEC 2018 10:45 AM